

**CITY OF RICHFIELD, MINNESOTA**

**MONDAY, SEPTEMBER 15, 2014**

**RICHFIELD MUNICIPAL CENTER  
6700 PORTLAND AVENUE**

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**SPECIAL CONCURRENT CITY COUNCIL AND  
HOUSING AND REDEVELOPMENT AUTHORITY WORKSESSION**

**BARTHOLOMEW ROOM**

**6:00 P.M.**

**AGENDA**

Call to order

1. Presentation from Myron Orfield, Director of the Institute on Metropolitan Opportunity, regarding concerns about discrimination in housing and education policy (Council Memo No. 89/HRA Memo 34)

Notes: \_\_\_\_\_  
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Adjournment

**Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.**

**CITY OF RICHFIELD, MINNESOTA**  
Office of City Manager

September 4, 2014

Council Memorandum No. 89

The Honorable Mayor  
and  
Members of the City Council

HRA Memorandum No. 34  
Housing and Redevelopment  
Authority Commissioners  
City of Richfield

Subject: September 15 Joint City Council/HRA Worksession

Council Members and Commissioners:

A joint Worksession of the Richfield City Council and Housing and Redevelopment Authority (HRA) has been scheduled for 6:00 p.m. on Monday, September 15 in order to hear a presentation from Myron Orfield regarding his concerns about discrimination in housing and education policy.

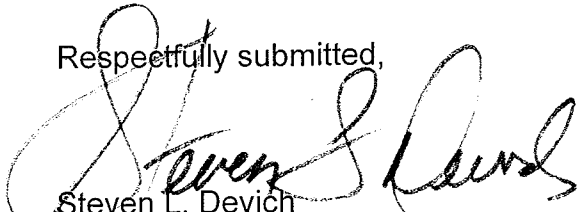
In addition to being a former State Senator and Congressman, Mr. Orfield is a law professor at the University of Minnesota and the Director of the Institute on Metropolitan Opportunity.

With regards to housing, Mr. Orfield is concerned that current regional policy concentrates minority population rather than providing housing opportunities throughout the region.

Mr. Orfield is also concerned that the way in which Minnesota schools are intended to promote racial integration (Minnesota State Statute 3535) needs to be amended in order to achieve its results.

Attached are two documents provided by Mr. Orfield summarizing these concerns.

Respectfully submitted,



Steven L. Devich  
City Manager

SLD:jcs  
Attachments  
Email: Department Directors  
Assistant City Manager

## SUMMARY: Housing Discrimination Complaint

The distribution of affordable housing within the Twin Cities is heavily segregative.

The two central cities together only contain 23 percent of regional population, but 55 percent of the region's non-white residents. They also contain over half the region's subsidized affordable housing: 37 percent in Minneapolis and 21.7 percent in Saint Paul.

Affordable housing in the central cities is typically segregated twice over: both at the municipal level and at the neighborhood level. First, by restricting access to housing to the two core cities, state, local, and regional governments have prevented racial minorities from accessing the many entry-level jobs and high-quality schools found in the suburbs. Beyond that, however, affordable housing in the cities is also far more likely to be placed in a segregated neighborhood than affordable housing elsewhere. For example, in Minneapolis, the quartile of census tracts with the highest minority populations contain only 17 percent of all housing units but 49 percent of subsidized units, while the quartile with the lowest minority population contains 30 percent of total units but a mere 1.3 percent of subsidized units. The highly segregated neighborhoods where affordable units are located are almost universally afflicted by a range of severe problems: extremely low incomes, low economic opportunity, poor health outcomes, poor educational opportunity, and predatory or nonexistent lending.

Housing segregation has also led to increasing school segregation. In the early 1990s, only about 2,000 (or 2.5 percent) of the region's non-white students were in schools that were more than 90 percent non-white and only 3 percent of the region's population lived in majority non-white, high poverty areas. During the next two decades, this all changed. By 2010 the number of schools made up of more than 90 percent non-white students had increased more than seven-fold (from 11 to 83); the number of nonwhite students in those highly segregated environments had risen by more than 10 times (from 2,000 to 25,400), a percentage increase from 2.5 percent to 16 percent; and the share of the regional population in majority nonwhite, high poverty areas rose by three times to 9 percent.

Other metros of roughly the same size and with similar racial demographic histories have not shown the same patterns of discrimination. In addition, some demographically similar cities are showing declines in segregation, not increases. For example, in 2012, 19 percent of low-income black residents of the Twin Cities lived in high-poverty census tracts (up from 13 percent in 2000) compared to just 3.4 percent of low-income black residents in Seattle (down from 3.5 percent in 2000) and 1.6 percent in Portland (down from 1.9 percent in 2000). The number of schools in the Portland metro made up of more than 90 percent non-white students was just 2 in 2009 (up from 0 in 2000); in Seattle it was only 25 (up from 14); and in Pittsburgh it was 25 (down from 27).

The Metropolitan Council, Minnesota Housing (MHFA), Minneapolis, and Saint Paul have all played a role in creating this multilayered segregation. First, the Met Council, under the state's Land Use Planning Act, has a statutory obligation to require that municipal comprehensive plans adequately provide for local housing needs, including by providing land zoned for low and moderate housing needs. Until the mid-80s, the Council enforced this requirement and withheld funding to communities that allowed exclusionary zoning, resulting in over 8500 acres zoned for affordable housing throughout the region. Enforcement, however, has

ceased, and 78 percent of this land has reverted to exclusionary uses, while the excluding communities continued to receive federal and local funding. The Met Council also began setting affordable housing goals for regional communities, assigning the highest goals to the central cities and racially transitioning inner-ring suburbs.

In addition, several mechanisms work to direct affordable housing funding to the central cities, and to segregated neighborhoods, instead of higher-income, higher-opportunity suburbs.

First, the single largest source of affordable funding for new construction, the Low Income Housing Tax Credit (LIHTC), is disproportionately allocated to the cities, which receive, on average, 45 percent of the entire region's yearly tax credit share. The same is true for all federally supported housing programs. Section 8 vouchers are placed in an even more segregated pattern. This is the result of policies instituted by the Met Council and Minnesota Housing. LIHTC are provided by the federal government, but states may develop their own distribution systems. In most of the Minnesota, MHFA serves as the primary agency for allocating tax credits. In the metro region, however, Minneapolis, Saint Paul, Dakota County, and Washington County are all considered "suballocators." Suballocators receive a predetermined portion of the metro area's tax credit share each year, which their respective housing agencies can allocate independently. By statute, the Met Council has discretionary authority to set these suballocator shares, in collaboration with MHFA. The Met Council has chosen to distribute suballocator shares in a highly segregative fashion: it gives Minneapolis and Saint Paul a combined 35 percent of the regional tax credits, despite the fact that the cities themselves are highly nonwhite, and furthermore, have demonstrated a consistent pattern of funding affordable housing in segregated neighborhoods. Through a "nonprofit set-aside," some projects in the two central cities are eligible for another 10 percent of the metro's total tax credits. MHFA, which has the ability to adjust the Met Council's allocations, has instead retained this segregatory policy.

After passing through the suballocator system, tax credits are assigned to individual projects by a competitive point system, which prioritizes projects on the basis of project characteristics. MHFA, Minneapolis, and Saint Paul all maintain point systems which heavily emphasize characteristics likely to be satisfied by segregated developments in the urban core – e.g., geographic proximity to light rail and bus rapid transit, homeless housing, use of preexisting infrastructure, single-room occupancy units, and the incorporation of a neighborhood stabilization plan – but place very little emphasis on characteristics likely to be satisfied by integrated or suburban developments. For example, the MHFA system assigns hundreds of possible points, but only five are available for economic integration, and none at all for racial integration. The central cities' point systems are similarly uneven, a factor which contributes greatly to their highly segregative placement of units.

Other funding sources are also heavily weighted towards the central cities. For instance, the Met Council maintains a ranked list of nearly 200 communities for housing funding priority. Saint Paul and Minneapolis are first and second on the list, respectively; most of the inner-ring suburbs are in the top quartile; and many white outer-ring suburbs are in the second quartile or below. Furthermore, outside of LIHTC, MHFA maintains a diverse array of funding vehicles for affordable housing projects. Approximately 52 percent of the units supported by this funding are located in Minneapolis and Saint Paul.

The Twin Cities also has some of the worst lending discrimination and patterns of racial steering in the nation, but agencies receiving federal housing dollars have done nothing thus far to assure fair lending or equal treatment by real estate agents. For instance, very high income black loan applicants are more likely to be denied a loan than low income white applicants. This has led to concentrations of subprime lending – and consequently, concentrations of foreclosures – in the Twin Cities’ poorest and most heavily segregated neighborhoods, especially in Minneapolis and Saint Paul. Rather than address lending discrimination, the cities have continued to work with banks and housing financial organizations to acquire foreclosed properties at a reduced price, for conversion into affordable units in the same distressed neighborhoods.

In addition to contributing to the creation of these disparities, the Met Council has not taken sufficient steps to identify or correct them. In its recent Fair Housing Equity Assessment (FHEA), the Met Council was required by federal guidelines to discuss impediments to fair housing choice, in order to make local governments “fully aware of the existence, nature, extent, and causes of all fair housing problems, and the resources available to stop them.” It was also required to review the laws, regulations, and administrative policies affecting fair housing issues in the region. It did neither. By failing to conduct the required analysis, it omitted from its FHEA the primary causes of continuing housing segregation in the Twin Cities: poorly constructed policies that prioritize affordable housing construction in the central cities, and the Council’s own refusal to carry out its statutory obligations to promote fair housing.

## SUMMARY: RULE 3535 PETITION TO AMEND

In 1999, the Minnesota Department of Education released a new school integration rule, Rule 3535. In doing so, it both significantly weakened its previous integration plan, and overrode a draft rule proposed by the State Board of Education, which had undertaken a years-long study of the issue. The state should amend Rule 3535. Three major pieces of new evidence have arisen since 1999, all of which suggest that the rule is no longer reasonable.

First, the 1999 rule was based on the assumption that the Supreme Court would soon eliminate the ability of schools to use race-conscious methods (e.g., flexible racial ratios) to promote diversity and avoid racial isolation. Instead, the opposite occurred: the Supreme Court reaffirmed schools' right to use race-conscious methods to achieve these compelling government interests.

Second, the 1999 rule exempted the open enrollees and charter schools from its protections, envisioning these as marginal programs for children with special needs. Since that time, the number of open enrollees and charter enrollees has exploded (in the latter case growing sixteen-fold) as both programs have become integral parts of Minnesota's education system. Moreover, the U.S. Department of Education has counseled that it is unconstitutional to omit charters from a desegregation plan.

Third, the amount of segregation in metropolitan area schools has grown rapidly. These increases have been particularly severe in charters, in which over 80 percent of students of color now attend a racially isolated school. Oftentimes, this outcome is by design, as many charters are "culturally targeted." In addition, the open enrollment system has facilitated segregation, as the bulk of students transferring from racially diverse districts into primarily-white districts have been themselves white. Charters and open enrollment have badly undermined the ability of districts to voluntarily desegregate, creating single-race enclaves for disgruntled parents and otherwise serving as vehicle for white flight.

There are other objections to the existing rule. In drafting the current integration plan, the state argued that the benefits of integrated schools are minimal, but there is in fact voluminous social science evidence showing integration improves educational, career, and social outcomes for white and nonwhite children alike. The state also argued that integration would cause white flight, and it lacked the authority to implement an inter-district plan, as the Board of Education's proposed rule would have done. Neither is true: national comparative studies show that white flight does not occur when integration plans are metro-wide, only when they are limited to a single core urban district – and the state has complete and untrammled constitutional authority to impose metro-wide, inter-district rules. The current rule narrows the constitutional definition of discrimination, omitting conduct that would be considered discriminatory by the Supreme Court. Finally, the current rule ignores the fact that a federal judge declared Minneapolis segregated by law, a designation that imposes special constitutional duties to integrate, and this determination was never lifted or reversed.